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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALEXANDRU C. DOAGA and ROBERT C. SILZER, SR.

Appeal 2009-003258
Application 10/767,407
Technology Center 3700

Before: LINDA E. HORNER, WILLIAM F. PATE III, and
FRED A. SILVERBERG, *Administrative Patent Judges*.

PATE III, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

This is an appeal from the final rejection of claims 1-22. These are the only claims in the application. We have jurisdiction over the appeal under 35 U.S.C. §§ 134 and 6. We reverse.

The claimed subject matter is directed to a golf course having a plurality of wireless access points that can serve as a communication infrastructure for the golf course and can serve additional subscribers as, for example, their broadband supplier. A method is also claimed.

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

1. A communications system comprising:
 - a local area network that comprises a plurality of wireless access points disposed about a golf course;
 - a wireless communications protocol operably supported by the plurality of wireless access points, wherein the wireless communications protocol supports:
 - automatically updating golf course infrastructure information; and
 - subscriber communications.

REFERENCES

The prior art cited by the Examiner as evidence of obviousness are:

Dudley	5,772,534	Jun. 30, 1998
Sirén	6,763,236 B2	Jul. 13, 2004

REJECTIONS

Claims 1-4, and 7-9 stand rejected under 35 U.S.C. § 102(b) or 103(a) as unpatentable over Dudley.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Dudley.

Claims 5 and 10-22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Dudley and Sirén.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the Appellants and the Examiner. As a result of this review, we have determined that the Examiner erred in rejecting the claims on the grounds of anticipation and obviousness. Therefore, the rejections of these claims are reversed. Our reasons follow.

Notwithstanding the findings on page 4 of the Answer, in our view, Dudley fails to show a local area network comprising a plurality of wireless access points, or subscriber communications. Therefore, it is our finding that claims 1-4 and 7-9 do not lack novelty over Dudley.

With regard to the rejection of claims 1-4 and 6-9 as unpatentable over Dudley, we are in agreement with Appellants that Dudley fails to render obvious a plurality of wireless access points. We also agree with Appellants that, as disclosed, Dudley shows only one transmitter 32 and receiver 30 at the clubhouse 26 that could broadly be construed as a wireless access point. Reply Br. 1-3. We agree with Appellants' argument that the transmitters and receivers on the various golf carts of Dudley are endpoints on the "network" and cannot be construed as wireless access points. App. Br. 9. We acknowledge the Examiner's argument that multiple transmitters or repeaters could be used if the environment, such as the terrain, dictated. Answer 4:17-5:2. There is no evidence that this extension of Dudley is

contemplated in the reference, and we agree with the Appellants that this is speculation on the part of the Examiner.

We are further in agreement with Appellants that Dudley does not disclose even part of the wireless communication resources to support subscriber communications. App. Br. 7. We further agree with Appellants that the emergency communications provided on each golf cart are merely communications dealing with the infrastructure and support of the golf course. App. Br. 11. We note that Appellants defined “subscriber communications” as communication that pertains completely to the interest and needs of the subscribers with little regard to operation of the golf course. *See Spec. para. [0025]*. Therefore, it is our conclusion that Dudley does not teach or render obvious wireless access points supporting subscriber communications as claimed.

We have carefully considered the Sirén disclosure. We acknowledge that it is directed to the division of bandwidth between various subscribers. However, we find nothing disclosed therein that would teach the applicability of the disclosure to a communication system which requires a division of the resources; some supporting an infrastructure and some supporting regular subscriber communications. The disclosure of Sirén is directed entirely to communications from a subscriber base. In our view, were one of ordinary skill to combine the teachings of Sirén and Dudley, one of ordinary skill would provide one communication system supporting the infrastructure of the golf course and another separate system for use by the subscribers. Nothing in the references would have taught or suggested division of a single communication resource between the infrastructure and a subscriber base.

For the foregoing reasons, it is our determination that Appellants have established that the Examiner erred in rejecting claims 1-22. The rejections of all of the claims on appeal are reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REVERSED

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